

In re:)	Case No. 2:07-cv-892-RCJ-GWF-BASE
)	and
USA COMMERCIAL MORTGAGE)	Case No. 3:07-cv-241-RCJ-VPC
COMPANY,)	
)	
)	AMENDED ORDER
Debtor.)	RELATIVE TO JUNE 2, 2008
)	PROCEEDINGS
)	
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² See Objections and Motion for Reconsideration Relative to April 28, 2008 Proceeding, Cause No. 2:07-cv-892, Doc. 502.

1 Reconsideration³ on May 19, 2008, to which LLCs responded in their Reply in Support of their
2 Motion for Reconsideration on May 23, 2008.⁴

3 The Court heard arguments on the Motion for Reconsideration on June 2, 2008. At the
4 June 2 hearing the Court also heard argument and/or ruled on other motions (the "Related
5 Motions"), including but not limited to (1) a motion by Compass for appointment of a receiver for
6 the LLCs, and (2) a motion by Fulbright & Jaworski L.L.P., for leave to withdraw as counsel for
7 the LLCs.

8 This Court, having heard oral argument of counsel and statements by other interested
9 individuals and having read and considered all pleadings and papers filed in support of and in
10 opposition to the Motion for Reconsideration and certain of the Related Motions, including all
11 declarations, attachments, and other papers that are relevant to the issues before the Court, has
12 decided that it is necessary and proper to rule on the pending motions and establish a schedule for
13 further proceeding in this matter as follows:

14 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

15 1. Motion for Reconsideration. The LLCs' Motion for Reconsideration is granted in
16 the following respects: (1) the LLCs shall not be dissolved and may continue to exist with their
17 membership intact, and the LLCs may continue to pursue their Complaint, amendments and
18 supplements, causes of action, claims and defenses herein; and (2) the 1% principal amount
19 which has previously been withheld from certain loan payoffs and kept in escrow, shall continue
20 to be withheld and escrowed pending a 30-day notice of a hearing to determine whether there are
21 any objections to this agreed-to amount being paid to the respective LLCs in order to fund the
22 litigation efforts of the LLCs. This 1% principal amount shall not be paid to individual direct
23 lenders without further order from this Court. For all future loan payoffs, the 1% principal
24 amount of the direct lender members of the respective LLCs shall be withheld and kept in escrow.
25 The Court will hear any objections to the payment of the 1% principal amount which has been

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27 ³ See Response to Objections and Motion for Reconsideration Relative to April 28, 2008 Proceeding, Cause No.
2:07-cv-892, Doc. 518.

28 ⁴ See Reply in Support of Objections and Motion for Reconsideration Relative to April 28, 2008 Proceeding, Cause
No. 2:07-cv-892, Doc. 533.

1 retained from the San Fernando, Bay Pompano, and Shamrock loan payoffs on July 7, 2008 at 9
2 a.m. The Motion for Reconsideration with respect to the reconveyance of the deed of trust
3 interests is denied.

4 2. Appointment of Receiver. By a separate order (the "Receiver Order") the Court
5 has appointed Thomas Grimmer as Receiver for the LLCs, to act in a management capacity and
6 as authorized representative of the LLCs. The Receiver shall continue to employ Fulbright &
7 Jaworski L.L.P. and Ballard Spahr Andrews & Ingersoll, LLP as counsel for the LLCs. Both the
8 Receiver and Fulbright & Jaworski L.L.P. have authority to mediate and negotiate concerning a
9 settlement of this matter on behalf of the LLCs, subject to the majority approval of any proposed
10 settlement by the direct lender members of the LLCs. The Receiver has the authority, in his
11 discretion, to distribute or not distribute any settlement proposal for a vote of the LLC members.
12 The Receiver may terminate counsel for the LLCs and substitute alternative counsel, or may
13 authorize proposed substitution of other counsel for the LLCs with permission from the Court.

14 3. Mediation. Pursuant to the Court's Order Directing Mediation dated May 14,
15 2008, a further mediation in this matter was held on June 6, 2008, before United States
16 Bankruptcy Judge Mike Nakagawa. Judge Nakagawa has scheduled further mediation sessions
17 for June 23 and 24, 2008. The Receiver and his counsel, and Fulbright & Jaworski L.L.P., and
18 Ballard Spahr Andrews & Ingersoll, LLP, are authorized to attend and participate in the
19 mediation on behalf of the LLCs. The direct lenders and/or their counsel may attend and
20 participate in the mediation as well.

21 4. Termination Hearing. A two-week hearing regarding the termination of Compass'
22 servicing rights shall begin on August 12, 2008 and run through August 25, 2008. The
23 termination hearing will begin with evidence of overall alleged breaches of fiduciary duties by
24 Compass with respect to the Loans, to be followed by evidence of such alleged breaches
25 respecting specific loans. The termination hearing is and shall be without prejudice to the direct
26 lenders', and the LLCs' rights to jury trial on all their claims.

27 5. Fulbright & Jaworski L.L.P.'s Motion to Withdraw. Fulbright & Jaworski
28 L.L.P.'s motion to withdraw as counsel for the LLCs is denied; and Fulbright & Jaworski L.L.P.

1 shall remain as counsel for the LLCs through the conclusion of the termination hearing; provided,
2 however, that Fulbright & Jaworski L.L.P., may request reconsideration of its motion to withdraw
3 upon conclusion of the termination hearings. This ruling is without prejudice to the right of
4 Fulbright & Jaworski L.L.P. to apply for an award of attorneys' fees and costs in connection with
5 their past and future services in this matter. Additionally, Fulbright & Jaworski L.L.P. may assert
6 attorney's liens for amounts due and owing to it or that may become due and owing to it.

7 6. Rights of Direct Lenders. Individual direct lenders continue to have the right to
8 join together in a collective entity and to pool their money and assets to hire counsel to represent
9 their interests on a contingent-fee basis or an hourly-fee basis.

10 7. Collection of Attorneys Fees Incurred Outside of Servicing Efforts. Compass shall
11 not, directly or indirectly, recharge to any direct lender any attorneys fees, costs or expenses
12 incurred outside of its regular servicing efforts, and, specifically, shall not charge the direct
13 lenders attorneys' fees incurred in opposing the litigation brought by direct lenders and/or any of
14 the LLCs.

15 8. Silar May Exercise its Contractual Rights. Nothing in this Order shall prevent
16 Silar from exercising any contractual rights and remedies under and consistent with the contracts
17 and agreements controlling its relationship with Compass, including, consistent with the
18 Preliminary Injunction Order, its right to foreclose on its collateral and its right to appoint an
19 alternative loan servicer.

20 9. Rulings on Other Motions. The following motions are denied:

- 21 a. Plaintiffs' Standing to Pursue Claims on Behalf of Direct Lenders in
22 Standard Property Loan and for Order Authorizing Limited Discovery of
23 Parties Involved in the Formation of Standard Property (without prejudice).
- 24 b. Silar's Motion for Sanctions (without prejudice).
- 25 c. Silar's Motion to Strike Second Amended Complaint or, in the Alternative,
26 to Dismiss (without prejudice).

27 10. Cross related Motions. The following motions are denied:

- 28 a. Cross' Motion to Intervene (with prejudice).

- b. Cross' Motion for Michael Collins, of the law firm Bickel and Brewer, to Appear *Pro Hac Vice* as counsel in the matter.

11. Standstill Agreement. The Standstill Agreement shall remain in effect through and including the conclusion of the mediation. If, upon conclusion of the mediation, a settlement proposal is to be submitted to the LLC members for a vote, the Standstill Agreement shall be extended through and including the completion of such voting process. The Standstill Agreement shall not prevent the parties from preparing for and conducting the termination hearing described above.

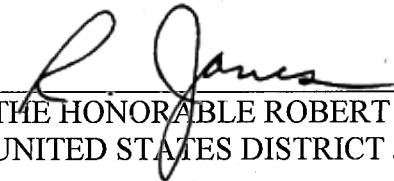
12. Litigation Schedule.

- a. Fulbright & Jaworski L.L.P. will send out a letter of notification to the direct lender members of Bar-USA Lenders, LLC, Bay Pompano Lenders, LLC, and Shamrock Lenders, LLC 30 days prior to the July 7, 2008 hearing regarding objections to the payment of the pledged 1% principal amount to the respective LLCs.
- b. A Final Status Call with the Court concerning the termination hearing will be held on August 6, 2008, with telephonic appearances of counsel permitted.
- c. On August 12, 2008, a two week hearing regarding the termination of Compass' servicing rights will commence.
- d. The Motion for Order of Contempt Against: Aimee Kearns, Edward Schoonover, Arnold Alves, and Donna Cangelosi will heard on September 16, 2008 at 9:00 a.m.
- e. The trial is set for January 27, 2009 at 9:00 a.m. The Order to Show Cause re: Civil Contempt will also be heard at this time. A calendar call is set for January 21, 2009, at 8:30 a.m.
- f. The discovery period related to the final trial will commence at the end of the standstill period and continue through 140 days.

This Order supersedes all previous Orders and directives of the Court to the extent that

such are in conflict with the contents contained herein.

IT IS SO ORDERED THIS 11th day of July, 2008.


THE HONORABLE ROBERT C. JONES
UNITED STATES DISTRICT JUDGE

Submitted by:

MARQUIS & AURBACH

By /s/Terry A. Coffing
Terry A. Coffing
Attorneys for Thomas Grimmett,
Receiver

FULBRIGHT & JAWORSKI L.L.P.

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[with the exception of Hesperia Lenders, LLC,
SVRB 2.325 Lenders, LLC, and SVRB 4.5 Lenders, LLC]

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By /s/ Stanley W. Parry
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[with the exception of Hesperia Lenders, LLC,
SVRB 2.325 Lenders, LLC, and SVRB 4.5 Lenders, LLC]

CERTIFICATE OF SERVICE

This certifies that, pursuant to Rule 5 of the Federal Rules of Civil Procedure, on the 10th day of July, 2008, a true and correct copy of the foregoing [Proposed] Order Relative to June 2, 2008 Proceedings was served on all counsel of record via the Court's CM/ECF System.

/s/ Norlynn B. Price
Norlynn B. Price